♣ Approved for Filing: P. Owen ♣ 01-17-05 12:37 PM ♣

	EMPLOYEE NONCOMPETITION CONTRACTS	
2005 GENERAL SESSION		
	STATE OF UTAH	
	Sponsor: Ed Mayne	
LONG	TITLE	
Genera	al Description:	
	This bill modifies the Judicial Code to address employee noncompetition contracts.	
Highlig	chted Provisions:	
	This bill:	
	► defines terms;	
	 provides when noncompetition contracts are permissible; 	
	 provides when noncompetition contracts are unenforceable; and 	
	 addresses enforcement when only a portion of the contract violates the statute. 	
Monies	Appropriated in this Bill:	
	None	
Other S	Special Clauses:	
	None	
Utah C	ode Sections Affected:	
ENAC	ΓS:	
	78-27-65 , Utah Code Annotated 1953	
Be it en	acted by the Legislature of the state of Utah:	
	Section 1. Section 78-27-65 is enacted to read:	
	78-27-65. Employment related to noncompetition contracts.	
	(1) As used in this section:	
	(a) "Common calling" means any employment:	



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28	(i) (A) for which no special skill or talent is involved; and		
29	(B) that may be performed by any other employee of average competence; or		
30	(ii) defined by a court of competent jurisdiction as a common calling.		
31	(b) "Employer" means a person that employs one or more persons.		
32	(c) "Just cause" means that the employee is discharged for:		
33	(i) an act or omission in connection with employment, not constituting a crime, which		
34	is deliberate, willful, or wanton and adverse to the employer's rightful interest; or		
35	(ii) dishonesty constituting a crime, any felony, or class A misdemeanor in connection		
36	with the claimant's work as shown:		
37	(A) by the facts, together with the employee's admission; or		
38	(B) by the employee's conviction of that crime in a court of competent jurisdiction.		
39	(2) Subject to Subsection (3), a contract between an employer and an employee that		
40	restricts or prohibits the employee from competing with the employer after the employee no		
41	longer works for the employer is permitted if:		
42	(a) the contract limits the former employee's ability to compete to the geographical area		
43	where the employee worked; and		
44	(b) the contract does not impose a greater restraint on the employee than is necessary to		
45	protect the former employer's goodwill.		
46	(3) A contract provision described in Subsection (2) may not be enforced if:		
47	(a) the restriction or prohibition in the contract provision is for a period of more than		
48	one year from the day on which the employee is no longer employed by the employer;		
49	(b) the employee is an employee in a common calling;		
50	(c) the employee does not possess skills or talents that are special, unique, or		
51	extraordinary; or		
52	(d) the employee's employment is terminated by the employer without just cause.		
53	(4) If a court finds that any part of a contract provision that restricts or prohibits an		
54	employee from competing with the employer after the employee no longer works for the		
55	employer violates this section, the entire contract provision restricting or prohibiting		
56	competition is unenforceable.		

Legislative Review Note as of 1-14-05 10:45 AM

Based on a limited legal review, this legislation has not been determined to have a high probability of being held unconstitutional.

Office of Legislative Research and General Counsel

Fiscal	Not	te
Bill Nun	ber	SB0113

Employee Noncompetition Contracts

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State Impact

No fiscal impact.

Individual and Business Impact

In some cases, there could be a significant impact on an individual as a result of the provisions of this bill. The impact will vary from case to case and cannot be estimated.

Office of the Legislative Fiscal Analyst